



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

GERMAN DE JESUS VENTURA, §
Plaintiff, §
§
vs. § Civil Action No. 1:17-1199-MGL
§
§
§
UNITED STATES OF AMERICA, R.J. §
STALLINGS, MRS. ROSARIO, DR. FONTE, §
MR. FINNERTY, and WARDEN BONITA §
S. MOSELY; §
§
Defendants. §
§

ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING PLAINTIFF'S COMPLAINT

Plaintiff German De Jesus Ventura (Ventura), proceeding pro se, filed this action seeking compensatory damages pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) and the Federal Tort Claims Act, 18 U.S.C. § 1346(b). The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting this case be dismissed with prejudice due to Ventura's failure to respond to the Court's prior orders. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo*

determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on September 18, 2018. ECF No. 50. Ventura filed a letter on October 1, 2018, stating “German De Jesus Ventura (“Plaintiff”) would like to object to the Report and Recommendation (Doc. 50-1). I need more time. I am in jail, not getting my mail, and trying to get a lawyer.” ECF No. 52. On October 17, 2018, this Court granted Ventura’s motion for extension of time and gave Ventura until November 16, 2018 to respond to the Report. ECF No. 57. Ventura has failed to file any objections, letters, or otherwise respond to the Court since October 24, 2017. ECF No. 59. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985). As the Magistrate Judge noted in the Report, it is Ventura’s duty to inform the Court if there is a change in address. Ventura failed to provide such a notification. Therefore, it appears to the Court Ventura wishes to abandon this action.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Ventura’s complaint is **DISMISSED** with prejudice as a result of Ventura’s abandonment of this action.

IT IS SO ORDERED.

Signed this 28th day of February 2019 in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within sixty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.